

CITY COUNCIL AGENDA REPORT

**SUBJECT: AGREEMENT FOR SPECIAL SERVICES WITH THE STATE
OFFICE OF ADMINISTRATIVE HEARINGS ("OAH")**

AGENDA DATE: October 7, 2008

PREPARED BY: Jennifer M. Lyon, City Attorney

APPROVED FOR AGENDA BY: Ralph Velez, City Manager



RECOMMENDATION: Authorize City Manager to sign agreement subject to the City Manager and the City Attorney approving the form and content of the agreement.

FISCAL IMPACT: The fee is \$187/hr for the services of the administrative law judge, which is billed for sitting at hearings, travel time, preparation time, pre-hearing motions and conferences, preparation of proposed decisions, etc. The costs of the OAH contract are currently an unfunded state mandate.

DISCUSSION (Current consideration): The Firefighter Bill of Rights ("FOBR") was recently approved and is now state law. A provision of the FOBR requires the City to provide the firefighters an opportunity for administrative appeal prior to imposing punitive disciplinary action. The FOBR requires the administrative appeals be conducted by administrative law judges on staff of the OAH. Essentially an administrative law judge will be used either to (1) hear the evidence alone and provide a proposed decision to the Personnel Commission or (2) sit with the Personnel Commission to assist and advise the Personnel Commission in the conduct of the hearing. It is necessary for the City to have a current contract on file with the OAH to utilize their services on any personnel issues that arise with firefighters. If no issues arise and the OAH is not used, then the City will spend no money on this contract. However, if and when the City is required to use the OAH's services, this contract will already be on file in order to move the personnel process along expeditiously. The services of the OAH are currently needed for a pending personnel matter. Staff requests that the Council authorize the City Manager to execute an agreement with the OAH subject to the City Manager and the City Attorney approving the form and content of the contract.

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